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James C. Mahan
U.S. District Judge

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Plaintiff(s),

v.

LEON BENZER, et al.,

Defendant(s).

Case No. 2:13-CR-18 JCM (GWF)

ORDER

Presently before the court is defendant Leon Benzer's motion for stay of restitution collection pending appeal. (ECF No. 793).

On August 6, 2015, the court sentenced defendant, and judgment was entered on August 21, 2015. (ECF Nos. 729, 750). On August 19, 2015, defendant filed a notice of appeal. (ECF No. 747). According to the judgment, restitution is in the amount of $12,228,913.40. (ECF No. 750).

In the instant motion, defendant requests that the court stay the collection of restitution pending the outcome of his appeal. (ECF No. 793).

Pursuant to Federal Rule of Criminal Procedure 38(e)(1), "[i]f the defendant appeals, the district court . . . may stay—on any terms considered appropriate—any sentence providing for restitution under 18 U.S.C. § 3556." Fed. R. Crim. P. 38(e)(1). Rule 38(e)(2) further provides, in relevant part, as follows:

> The court may issue any order reasonably necessary to ensure compliance with a restitution order . . ., including:
> . . . .
> > (C) an order requiring the defendant to deposit all or part of any monetary restitution into the district court's registry; or
> > (D) an order requiring the defendant to post a bond.

1   Fed. R. Crim. P. 38(e)(2).

2   Thus, defendant is ordered, in accordance with Rule 38(e)(2)(C) or (D), to either

3   (a) deposit all of the monetary restitution into the district court's registry, or (b) post a

4   bond. Upon completion, defendant shall file notice with the court and renew the instant

5   motion.

6   Accordingly,

7   IT IS HEREBY ORDERED that defendant's motion for stay of restitution

8   collection pending appeal (ECF No. 793) be, and the same hereby is, DENIED without

9   prejudice consistent with the foregoing.

10   DATED February 6, 2017.

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12   _____
     UNITED STATES DISTRICT JUDGE

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James C. Mahan
U.S. District Judge

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